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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Sheldon YOURIST et al.

Appl. No. 10/662,879

Confirmation No. 1152

Filed: September 16, 2003

For: PLASTIC CARAFE

Art Unit: 3727

Examiner: Sue A. WEAVER

Atty. Docket No. 29953-184842

Customer No.

26694

PATENT TRADEMARK OFFICE

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Post Office Box 1450
Alexandria, Virginia 22313-1450

Sir:

In response to the restriction requirement of July 16, 2004, Applicants select Group I claims 1-21 and 25-40 for further prosecution, with traverse. Applicants respectfully reserve the right to request rejoinder of claims 22-24, drawn to a method of blow molding a carafe, if those claims are amended to contain all of the limitations of any allowable apparatus claims.

The July 16, 2004 Restriction Requirements also requires election of further alleged subcombinations within Group I. Applicants elect Group I', claims 1-8, 10-13, 15, 16 and 18, for further prosecution, with traverse.

First, Applicants note that Groups I' through VI are all classified within the same class but different subclasses. Accordingly, Applicants submit that any reasonable search of the prior art that would include all of the features claim 1 would similarly disclose the claimed features of

each and every additional Group. For example, Group I' adds a design feature to the carafe. Obviously, any search of the carafe art would readily divulge carafes with designs, without imposing any additional burden on the Examiner. Similarly, Group VI, claims 25-29, is drawn to a carafe with a closure. The presence of a closure would be readily apparent in any search of the art covering claim 1 and therefore search of this Group VI would present no additional burden on the Examiner. Similarly, Groups III-V and Group VII all contain the same carafe limitations, and a search of the broader carafe art would reveal any other references with each of these limitations without putting any extra burden on the Examiner. Accordingly, Applicants submit that the restriction requirement is improper and unnecessary and respectfully request that all of the apparatus claims in the present invention, claims 1-21 and 25-40, be rejoined.

In order to expedite prosecution, Applicants submit that, even if complete rejoinder is refused by the Examiner, at least Groups I', II' V, VI, and possibly VII should be rejoined. The additional features of at least these Groups of claims would be uncovered upon a search of the Group I' claims and thus would not present any further burden on the Examiner.

Finally, Applicants note that the restriction requirement improperly attempts to shift a minor burden on the Examiner to a major burden and expense upon the Applicants. While there are several features in the present invention, a search based on the art of the broadest claims, which the Examiner would necessarily undertake in examining Group I', would reveal the features in the other apparatus claims. In contrast to this less substantial burden, if the restriction requirement is maintained in its entirety, Applicants would have the extreme burden and expense of filing and prosecuting eight separate patent applications. Although there may be several subclasses involved in each of the proposed subgroups (I' – VII), a search of the broader claims would necessarily set forth or reveal related art within those different categories. Thus, the

burden on the Examiner would be relatively small. For this reason as well, Applicants submit that the restriction requirement is improper and should not be maintained.

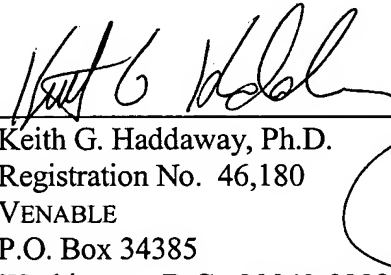
CONCLUSION

Applicants select, with traverse, Group I and Sub-Group I', claims 1-8, 10-13, 15, 16 and 18, for further prosecution on the merits. For the reasons above, Applicants respectfully request rejoinder of all apparatus claims 1-21 and 25-40 in the application. Alternatively, Applicants submit that of at least Groups I', II', V, VII and VII should be rejoined.

Applicants respectfully submit that the pending claims are in condition for allowance and request a Notice of Allowability of claims 1-21 and 25-40 and that the application pass to issue. Should the Examiner feel that telephonic communication with undersign counsel would expedite prosecution of this application, the Examiner is invited to contact counsel. If any additional fee is required in conjunction with this response, the Commissioner is authorized to charge our deposit account No. 22-0261, and notify undersigned counsel accordingly.

Respectfully submitted,

Date: September 8, 2004



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